

# Fiscal Services Division

## Legislative Services Agency

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HF 2212 – Smoking Ban in Public Places (LSB 5743 CH)

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Fiscal Note Version – Conference Committee Report

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### **Description**

House File 2212, as passed by the Conference Committee, creates a new Code of Iowa chapter called the “Smoke-Free Air Act.” The Act is to be enforced by the Department of Public Health (DPH) or the Department’s designee.

The Bill prohibits smoking in all enclosed locations within places of employment, and specified outdoor areas, including school grounds. In addition, the Bill prohibits smoking in gambling structures, excursion gambling boats, and racetrack enclosures, with the exception of gaming floors, exclusive of any bar or restaurant located within the gaming floor. Other exceptions to the smoke-free requirement include the Iowa Veterans Home, state and county fairgrounds, and farm tractors, farm trucks, and implements of husbandry. Institutions administered by the Department of Corrections (DOC) and facilities of the Iowa National Guard are also exempt, except that smoking on the grounds is limited to designated areas.

The Bill directs the Department of Public Health to provide a compliance education program for the public, employers, and business owners. Complaints may be filed with the Department or the Department’s designee. Judicial magistrates are to hear and determine violations.

The civil penalties provided under the Bill are as follows:

- \$50 for individuals smoking in a prohibited area.
- \$100 for the first violation by an owner, manager, or operator of a place of employment that fails to comply. The second violation within a year will result in a penalty up to \$200. The third and subsequent penalties within a year will result in a penalty up to \$500.
- \$2,000 to \$10,000 for wrongful discharge or discrimination by an employer against an employee for filing a complaint, legal action, etc.

### **Background**

According to the National Conference on State Legislatures (NCSL), 22 states, the District of Columbia, and Puerto Rico currently require all workplaces, including restaurants and bars, to be smoke-free. Six additional states require all workplaces, including restaurants, to be smoke-free, but exempt bars. Another three states exempt bars and restaurants that do not admit people under age 18 or 21. Approximately half of these laws were enacted in 2006 or 2007.

### **Assumptions**

**Department of Public Health/Local Governments** – House File 2212 does not specify how the Smoke-free Air Act would be enforced, except that it would be enforced by the DPH or the Department’s designee. It is assumed that the designee may be a city or county official. The Department’s estimated costs for implementation and education are included in the fiscal impact. Additional detail regarding the Department’s education and implementation plans is available on request from the LSA.

**Reduced Cigarette Sales** – Based on information obtained from the Illinois Department of Revenue, a 4.0% decrease (\$31.4 million in retail expense) in cigarette sales is assumed. The direct impact of the decreased sales is a projected reduction in annual General Fund tax revenue of \$10.5 million.

Iowa receives approximately \$6.1 billion in net General Fund receipts from total personal income of \$108.0 billion (5.7%). If the dollars not expended on cigarettes are considered the same as increased income and expended as any other income dollar by Iowans, the \$31.4 million in annual cigarette expenditure reductions will generate \$1.8 million in General Fund receipts. Combining the cigarette and sales tax reductions of \$10.5 million with the \$1.8 million General Fund increase yields a projected net annual General Fund revenue reduction of \$8.7 million in FY 2009.

**Changes in Other Spending Patterns** – Banning smoking in most business establishments will alter expenditure patterns of both smokers and non-smokers. Smokers may not spend as much as they would otherwise in places where they could formerly smoke, and non-smokers may frequent businesses where smoking was formerly allowed.

The Legislative Services Agency has reviewed many smoking ban economic studies of the impact on bar and restaurant sales. There are many studies showing decreased expenditures, many showing no impact, and a few showing a positive impact. The Agency concludes the overall impact on State tax revenue will likely be zero to slightly negative. To the extent the impacts are negative; the impacts will be concentrated in border businesses and businesses with a small population from which to draw customers.

**Fiscal Impact**

**Reduced Cigarette Sales** – Estimated State General Fund and local government reductions from the cigarette sales impact include:

**Estimated Cigarette Sales Revenue Impact**

Dollars in Millions

Fiscal Year	Cigarette Tax	State Sales Tax	Increased Income*	State	Local Gov
				Net General Fund Impact	LOST-SILO** Taxes
2009	\$ -8.94	\$ -1.57	\$ 1.80	\$ -8.71	\$ -0.40
2010	-8.85	-1.58	1.80	-8.62	-0.42
2011	-8.75	-1.59	1.80	-8.54	-0.45
2012	-8.66	-1.59	1.80	-8.45	-0.48

\* The estimated dollar amount generated if the dollars not expended on cigarettes are considered the same as increased income and expended as any other income.

\*\* Local Option Sales Tax (LOST) and School Infrastructure Sales Tax (SILO)

**Expenditures** – The Department of Public Health estimates increased costs to implement and administer this legislation at \$106,900 for FY 2009 and \$51,100 for FY 2010. These costs include administrative costs, educational materials, toll-free number, web site, and postage. The cost for FY 2009 will be determined by how the Department markets the toll-free number.

If the Department initiates a statewide media campaign to promote the law and its provisions, and follows similar procedures to current campaigns, the minimum cost for a 9-month radio and billboard campaign would be \$800,000; however, the Department’s current budget includes \$500,000 that could be utilized for campaign expenses. Adding print and television would increase the costs.

**Department of Public Health**

	Est. FY 2009	Est. FY 2010
Staff & Administrative Costs	\$ 51,400	\$ 36,700
Toll-Free Number	3,200	1,900
Educational Materials	35,000	8,800
Postage Costs	5,300	1,700
Signage (Downloadable Only)	0	0
Web Site	12,000	2,000
<b>Total</b>	<b>\$ 106,900</b>	<b>\$ 51,100</b>

**Net Fiscal Impact of Bill as Passed by the Conference Committee** – The net reduction to the State General Fund, combining revenue increases, decreases, and increased expenditures, is \$8.8 million for FY 2009 and \$8.7 million for FY 2010 and future fiscal years. The reduction in local LOST and SILO revenue is projected to be \$0.4 million per year beginning in FY 2009.

### ***Additional Potential Impacts***

- **Judicial Branch/Courts.** The Judicial Branch indicated that there could be an impact to the courts for processing complaints, but the number of cases cannot be determined. Compliance is expected to be high and few citations are expected so any impact should not be significant.
- **Local Governments.** The total estimated costs for on-site inspections are unknown. Also unknown is whether the inspections will be conducted by city or county officials. Costs for inspections are expected to be offset by inspection fees and/or penalties collected.
- **Potential Savings.** If the smoking ban results in less tobacco-related illness over time, there may be a reduction in State health care expenditures paid under Medicaid and consumer health care expenditures in general. This estimated savings is unknown.

### **Sources**

Department of Corrections  
Judicial Branch  
Department of Public Health  
National Conference of State Legislatures  
Department of Revenue  
Department of Inspections and Appeals

/s/ Holly M. Lyons

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April 9, 2008

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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